

## Office of the Secretary of the Treasury

## § 31.216

U.S. Code or other provision of criminal law, Treasury shall refer such information to the Department of Justice and the Special Inspector General provided for under EESA.

(d) A retained entity shall disclose to the Special Inspector General provided for the TARP, or the Treasury Office of the Inspector General, any credible evidence, in connection with the designation, services, or closeout of the arrangement, that a management official, employee, or contractor of the retained entity has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code, or a violation of the civil False Claims Act (31 U.S.C. 3729–3733).

### § 31.214 Limitations on concurrent activities.

Treasury has determined that certain market activities by a retained entity during the arrangement are likely to cause impermissible conflicts of interest. Accordingly, the following restrictions shall apply unless waived pursuant to § 31.215, or Treasury agrees in writing to specific mitigation measures.

(a) If the retained entity assists Treasury in the acquisition, valuation, management, or disposition of specific troubled assets, the retained entity, management officials performing work under the arrangement, and key individuals shall not purchase or offer to purchase such assets from Treasury, or assist anyone else in purchasing or offering to purchase such troubled assets from the Treasury, during the term of its arrangement.

(b) If the retained entity advises Treasury with respect to a program for the purchase of troubled assets, the retained entity, management officials performing work under the arrangement, and key individuals shall not, during the term of the arrangement, sell or offer to sell, or act on behalf of anyone with respect to a sale or offer to sell, any asset to Treasury under the terms of that program.

### § 31.215 Grant of waivers.

The TARP Chief Compliance Officer may waive a requirement under this

Part that is not otherwise imposed by law when it is clear from the totality of the circumstances that a waiver is in the government's interest.

### § 31.216 Communications with Treasury employees.

(a) *Prohibitions.* During the course of any process for selecting a retained entity (including any process using non-competitive procedures), a retained entity participating in the process and its representatives shall not:

(1) Directly or indirectly make any offer or promise of future employment or business opportunity to, or engage directly or indirectly in any discussion of future employment or business opportunity with, any Treasury employee with personal or direct responsibility for that procurement.

(2) Offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any Treasury employee, except as permitted by Government-Wide Ethics Rules, 5 CFR part 2635.

(3) Solicit or obtain from any Treasury employee, directly or indirectly, any information that is not public and was prepared for use by Treasury for the purpose of evaluating an offer, quotation, or response to enter into an arrangement.

(b) *Certification.* Before a retained entity enters a new arrangement, or accepts a modification to an existing arrangement, the retained entity must certify to the following:

(1) The retained entity is aware of the prohibitions of paragraph (a) of this section and, to the best of its knowledge after making reasonable inquiry, the retained entity has no information concerning a violation or possible violation of paragraph (a) of this section.

(2) Each officer, employee, and representative of the retained entity who participated personally and substantially in preparing and submitting a bid, offer, proposal, or request for modification of the arrangement has certified that he or she:

(i) Is familiar with and will comply with the requirements of paragraph (a) of this section; and